

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO. _____

ALBERTO PEREZ, CERAH FISHLEY,
and KATHY CARR, on behalf
of themselves and on behalf of all others
similarly situated,

Plaintiffs,

v.

MEDNAX SERVICES, INC., a Florida
Profit Corporation,

Defendant.

_____ /

DEFENDANT'S NOTICE OF REMOVAL

Defendant, Mednax Services, Inc. ("Mednax"), hereby gives notice that the action styled *Alberto Perez, et al. v. Mednax Services, Inc.*, pending in the Circuit Court of the Seventeenth Judicial District in and for Broward County, Florida, Case No. CACE-22-001446, has been removed to the United States District Court for the Southern District of Florida, pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446.¹

¹ By removing this proceeding, Defendant does not waive, and shall not be deemed to have waived, any available rights and defenses.

MEMORANDUM OF LAW

This Court has original jurisdiction over this action under 28 U.S.C. § 1331, and this action may be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446, for the following reasons:

I. Federal Question Jurisdiction Exists in this Case

1. On or about January 28, 2022, Plaintiffs, Alberto Perez, Creah Fishley and Kathy Carr (“Plaintiffs”), filed a complaint against Defendant Mednax Services, Inc., in the Circuit Court of the Seventeenth District in and for Broward County, Florida. Plaintiffs asserted one count against Mednax in the Complaint: Failure to Provide Pre-Adverse Action Notice in Violation of the Fair Credit Reporting Act pursuant to 15 U.S.C. § 1681b(b)(3)(A)(i). In accordance with 28 U.S.C. § 1446(a), true and correct copies of the Complaint and Summons are attached as Exhibit “A.” A true and correct copy of the docket, all process, pleadings, orders, and other documents served on defendant, exclusive of the Complaint and Summons, served upon Mednax in the State Court Action is attached hereto as Exhibit B.”

2. Plaintiff served the Complaint on Mednax on or about February 3, 2022.

3. The Complaint asserts a claim for violation of the federal Fair Credit Reporting Act (“FCRA”). The FCRA grants concurrent federal and state jurisdiction over FCRA claims. Specifically, 15 U.S.C. § 1681p sets forth that “[a]n action to enforce any liability created under this subchapter may be brought in any appropriate United States district court ... or any other court of competent jurisdiction.” The 11th Circuit has held that the language of the statute providing concurrent jurisdiction for actions brought under the FCRA does not prohibit removal. *Lockard v. Equifax, Inc.*, 163 F.3d 1259, 1264–65 (11th Cir. 1998); *Arianas v. LVNV Funding, LLC*, 2014 WL 5388167, at *1 (M.D. Fla. July 10, 2014) (finding that an action alleging

federal Fair Credit Reporting Act claims, among others, filed in state court was properly removed to federal court).

4. This Notice of Removal is being filed with this Court within 30 days after Defendant's receipt of the Complaint on February 3, 2022, in compliance with 28 U.S.C. § 1446(b). *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354, 119 S.Ct. 1322, 1328 (1999).

5. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal will be promptly served upon Plaintiffs' counsel and to the Clerk of the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida.

WHEREFORE, Defendant prays that this action be removed and request this Court to assume full jurisdiction over this matter as provided by law.

Respectfully submitted,

LASH & GOLDBERG LLP

Suite 1200, Miami Tower
100 Southeast Second Street
Miami, Florida 33131-2100
(305) 347-4040 Telephone
(305) 347-4050 Facsimile
Attorneys for Defendants

By: /s/ Martin B. Goldberg

MARTIN B. GOLDBERG

Florida Bar No. 0827029

mgoldberg@lashgoldberg.com

EMILY L. PINCOW

Florida Bar. No. 1010370

epincow@lashgoldberg.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17th, 2022, I electronically filed the foregoing document with the Clerk of Court using CM/ECF and further certify that the foregoing is also being served via electronic mail as addressed below:

Marc R. Edelman, Esq.
MORGAN & MORGAN, P.A.
medelman@forthepeople.com
201 N. Franklin Street, Suite 700
Tampa, FL 33602-5157
Attorney for Plaintiffs

By: /s/ Martin B. Goldberg
Martin B. Goldberg